

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT WINCHESTER

LILY O. BARNES,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case Nos. 4:04-cv-10 / 4:02-cr-47
	)	<i>Judge Edgar</i>
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

Petitioner Lily O. Barnes, a federal prisoner, has filed a *pro se* motion for post-conviction relief under 28 U.S.C. § 2255. The United States of America opposes the motion. The Court referred the case to Magistrate Judge William B. Mitchell Carter for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). On February 1, 2007, Magistrate Judge Carter submitted his report and recommendation. [Doc. No. 9]. The parties have not timely filed any objections.

After reviewing the record, the Court **ACCEPTS and ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1). Accordingly, the motion for post-conviction relief brought under 28 U.S.C. § 2255 shall be **DENIED and DISMISSED WITH PREJUDICE**.

Any appeal from this decision by petitioner Barnes would be frivolous and not taken in good faith. Any application by petitioner Barnes for leave to proceed on appeal *in forma pauperis* shall be denied pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a).

If petitioner Barnes files a notice of appeal, it shall be treated as an application for a certificate of appealability which will be denied pursuant to 28 U.S.C. § 2253(c) and Fed. R. App. P. 22(b)(1) because she has not made a substantial showing of the denial of a constitutional right.

A separate judgment will be entered.

SO ORDERED.

ENTER this the 21<sup>st</sup> day February, 2007.

/s/ R. Allan Edgar

R. ALLAN EDGAR  
UNITED STATES DISTRICT JUDGE